

MEMORANDUM

December 27, 2005

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: MELANIE E. LOMAX
Melanie E. Lomax & Associates

JOHANNA M. FONTENOT
Principal Deputy County Counsel
General Litigation Division

RE: Benjamin Gonzalez v. County of Los Angeles
Los Angeles Superior Court Case No. VC 043505

DATE OF
INCIDENT: March 8, 2004

AUTHORITY
REQUESTED: \$60,000

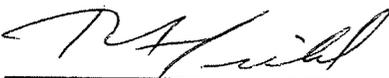
COUNTY
DEPARTMENT: Internal Services Department

CLAIMS BOARD ACTION:

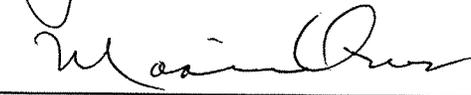
Approve

Disapprove

Recommend to Board of
Supervisors for Approval


_____, Chief Administrative Office
ROCKY A. ARMFIELD


_____, County Counsel
JOHN F. KRATTLI


_____, Auditor-Controller
MARIA M. OMS

on January 10, 2006

SUMMARY

This is a recommendation to settle for \$60,000, a lawsuit filed by Benjamin Gonzalez, who was injured in an automobile accident with an Internal Services Department vehicle.

LEGAL PRINCIPLE

A public entity is responsible for the negligent acts of its employees when the acts are done in the course and scope of employment.

SUMMARY OF FACTS

On March 8, 2004, Benjamin Gonzalez was driving north on the 605 freeway, when he was rear-ended by a truck driven by an Internal Services Department ("ISD") employee. Mr. Gonzalez's vehicle was pushed into the car pool lane where it was struck by another vehicle. The ISD employee, an elevator mechanic, was en route to repair an elevator.

Mr. Gonzalez sustained injuries to his back and neck and pain in his left hip and thigh. His vehicle was a total loss. Mr. Gonzalez did not return to work until November of 2004. At that time, he was placed on light duty for another 11 months.

The California Highway Patrol traffic collision report concluded that the ISD employee was the cause of the accident.

DAMAGES

Benjamin Gonzalez, a truck driver, did not return to driving until September 2005, because the motion of turning the steering wheel caused him to have neck pain. Mr. Gonzalez still complains of pain in his neck and frequent headaches when he drives a truck. He has recently sought a continuance of the trial date in this action to allow for neck surgery.

Should this matter proceed to trial, we estimate the potential damages could be as follows:

Past medical expenses	\$ 14,000
Medical expenses	\$ 25,000
Lost Wages	\$ 60,000
Pain and suffering	<u>\$100,000</u>
Total	<u>\$199,000</u>

STATUS OF CASE

Trial was set January 9, 2006, but has been continued pending consideration of the proposed settlement.

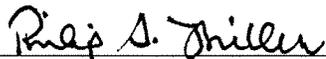
Expenses incurred by the County in defense of this action are attorneys' fees of \$17,194.46 and \$866.67 in costs.

EVALUATION

This is a case of undisputed liability. A reasonable settlement at this time will avoid further litigation costs, and a potential jury verdict that could exceed the amount of the settlement.

We join with our private attorney, Melanie Lomax & Associates, and our third party administrator, Carl Warren and Company, in recommending a settlement of this matter in the amount of \$60,000. The Internal Services Department concurs in the recommendation.

APPROVED:



PHILIP S. MILLER

Assistant County Counsel
General Litigation Division

PSM:JMF:bh